

REMARKS

Claims 1-12 and 14-17 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Roe et al. (U.S. Patent No. 5,998,695). This ground of rejection is respectfully traversed.

The Examiner states that Roe et al. discloses an absorbent article comprising a front and rear waist portion forming a waist opening, a crotch region formed between the front and rear waist portions, and a selectively-permeable top sheet. The Examiner states that the top sheet is hydrophobic, but it can be made hydrophilic by treatment with a lotion, such as a skin care composition. Applicant strongly disagrees with this interpretation of the reference.

In order for a claim to be anticipated by a reference, that reference must disclose each and every element of the claimed invention. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See also *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989), “The identical invention must be shown in as complete detail as is contained in the claim.”

The present claims are now directed to an absorbent article having a selectively permeable top sheet. The top sheet is hydrophobic, but the hydrophilic regions, which correspond to the insult regions, are made hydrophilic by topical treatment with a skin wellness agent. Antecedent support for the claim amendments is found in the original claims of this application.

The Roe et al. reference states that the top sheet is constructed from a hydrophobic material, and it can either have apertures, or it can be continuous and devoid of apertures or openings. When the top sheet does not have apertures, it is treated with a hydrophilic surfactant to permit the transfer of liquid through the top sheet. This treatment is described in the reference as being applied to the entire surface of the top sheet, not to individual regions thereof. See col. 6, lines 4-9. There is no disclosure in Roe et al. that skin wellness agents can be used to produce hydrophilic regions. The use of skin wellness agents is disclosed in connection with reducing the level of skin irritation for the wearer.

Alternatively, when the top sheet has apertures, it can be treated with a hydrophobic agent. The purpose of hydrophobic treatment is to prevent the fluids from causing irritation to the skin of the wearer as a result of leakage from the diaper core through the top sheet. See col. 6, lines 1-56 of the reference. Accordingly, Roe et al. discloses the use of both hydrophilic and hydrophobic agents for treating the top sheet of the absorbent article. However, the only hydrophilic treatment agent disclosed in Roe et al. are surfactants, not skin wellness agents.

Moreover, Roe discloses that the entire top surface of the top sheet can be made hydrophilic, and not specific regions thereof. See col. 6, lines 10-12. In contrast, the present claims require the presence of both hydrophobic and hydrophilic regions on the top sheet surface.

Claims 13, 18, 19-22, 25-28, 29-44, and 47-50 stand rejected under 35 U.S.C. § 103(a) as being obvious over Roe et al. in view of Guidotti et al. (U.S. Patent No. 5,741,241). This ground of rejection is also traversed.

Three criteria must be met to establish a prima facie case of obviousness: (1) there must be some suggestion or motivation to modify the reference or to combine reference teachings, (2) there must be a reasonable expectation of success, and (3) the prior art references must teach or suggest all the claim limitations (MPEP § 2143).

Guidotti et al. defines a wetting point area in an absorbent article, and discusses the idea of making the area more porous so as to allow quick wicking of fluid. In contrast, Roe et al. does not make a distinction between various regions of the top sheet, and teaches that the entire top sheet surface can be hydrophilic.

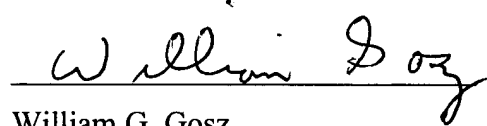
In contrast, applicant discloses the introduction of specific hydrophilic regions in the top sheet located at specific insult areas. Applicant submits that a person of ordinary skill in the art having prior knowledge of the Roe et al. absorbent article would not be motivated to provide selective hydrophilic regions. In connection with an obviousness determination, the motivation required to combine references to teach a feature must also show that the feature to be substituted is desirable in terms of the combination urged, not merely feasible. See *Winner Int'l. Royalty Corp. v. Ching-Rong Wang*, No. 98-1553 (Fed. Cir. Jan. 27, 2000).

Accordingly, the present application is now believed to overcome the remaining

rejections, and to be in proper condition for allowance. Entry of the foregoing amendment is deemed appropriate at this time since it does not create any new issues, nor does it require any further search. Reconsideration of the rejections and allowance of this application are therefore respectfully requested. The Examiner is invited to contact the undersigned at the telephone number listed below to facilitate the prosecution of this application.

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Respectfully submitted,

A handwritten signature in cursive script, reading "William Gosz", written over a horizontal line.

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